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Friday
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Part VII—Section E

Department of Education

Petroleum and Natural Gas Conservation: Federal Public Facilities Assistance Programs

DEPARTMENT OF EDUCATION

45 CFR Parts 100a and 100b

Petroleum and Natural Gas Conservation; Regulations To Implement Executive Order 12185

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations to implement Executive Order 12185. These regulations are designed to achieve conservation of petroleum and natural gas in connection with the receipt of Federal financial assistance.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Wilton Anderson, Director, Energy and Education Action Center, U.S. Department of Education, 400 Maryland Avenue SW. (Room 514, Reporters Building), Washington, D.C. 20202. Telephone: (202) 472-7777.

SUPPLEMENTARY INFORMATION:

A. Background

On December 17, 1979, the President issued Executive Order 12185 under the authority granted to the President in section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620). Under this Executive Order, each Federal agency is required to issue regulations designed to achieve conservation of petroleum and natural gas in connection with the receipt of Federal financial assistance.

On February 7, 1980, a preliminary, Government-wide list of Federal programs was published in the **Federal Register** (45 FR 8534) as a first step in implementing Executive Order 12185. The listed programs were identified by the various Federal agencies as being programs that offered significant opportunities for the conservation of petroleum and natural gas. A number of Federal education programs were listed under the Public Facilities and Labor/Human Resources/Education sections of the **Federal Register** notice. The public was given 60 days to comment on the list of programs and to submit suggestions for regulations that would achieve the conservation of petroleum and natural gas in these and other Federal financial assistance programs.

The Secretary published a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 7, 1980 (45 FR 30386) to implement Executive Order 12185. The proposed regulations added a new section to 45 CFR Part 100a and 45 CFR Part 100b, the Education Division General Administrative Regulations (EDGAR). A new § 100a.616 of EDGAR was proposed to require certain energy conservation measures in the construction of facilities under Federal education programs, and new §§ 100a.690 and 100b.690 were proposed to require consideration of energy conservation awareness as a program component in Federal education programs.

In the "Supplementary Information" section of the preamble to the NPRM, the Secretary invited comments on whether the Department should establish, adopt, or suggest specific energy performance standards for buildings constructed with Federal education funds. The Secretary also expressed interest in receiving comments and suggestions for other regulations on energy conservation that could be included in EDGAR or in specific program regulations.

The public had sixty days to comment on the proposed regulations. Twenty-six persons submitted written comments during this time.

B. Summary of Comments and Responses

The following is a summary of the comments received from the public and the Department's responses. The comments and responses appear in the same order as the final regulations.

§ 100a.616 Energy conservation.

(1) *Comment.* A few commenters opposed the issuance of any final regulations to implement Executive Order 12185. One commenter questioned the appropriateness of the Executive Order.

Response. No change has been made. Under Executive Order 12185, the Department of Education is required to issue regulations designed to achieve conservation of petroleum and natural gas in connection with the receipt of Federal financial assistance. The Executive Order was appropriately issued by the President under the authority granted in section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620).

(2) *Comment.* Some of the commenters favored the adoption of energy conservation measures in the construction of facilities under Federal education programs that are more specific than the requirements in the proposed regulations. These commenters favored the adoption of either State and local building standards, or the standards published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). Some commenters stated that the Department of Energy's Building Energy Performance Standards should be used when they are promulgated as final regulations.

Response. A change has been made. In addition to the requirements now contained in § 100a.616(a) of the final regulations, these regulations require in a new § 100a.616(c) that grantees comply with the ASHRAE Standard 90-75. The adoption of ASHRAE 90-75 will ensure that facilities constructed with Federal education funds will be energy efficient. Since many State and local building codes already require compliance with ASHRAE Standard 90-75, its adoption will not impose any additional burdens in those areas. When the Department of Energy's Building Energy Performance Standards are promulgated as final regulations, the Department of Education will consider adopting them in place of ASHRAE 90-75.

§§ 100a.690 and 100b.690 Energy conservation awareness.

(1) *Comment.* The majority of commenters supported the proposed emphasis on energy conservation awareness. A number of the commenters suggested that the language in these sections be more specific and that a component on energy conservation awareness be required in all programs.

Response. No change has been made. The Secretary believes that it is appropriate to have a flexible requirement on the incorporation of energy conservation awareness as a program component in Federal education programs. The utility and feasibility of incorporating this type of component varies among the great number of programs that will be subject to the requirements in EDGAR.

(2) *Comment.* Several persons commented on the need for the development of programs on energy conservation awareness and the dissemination of information on these programs. One commenter suggested that the regulations require a public information component, while several other commenters stated that the Federal Government should develop and disseminate the elements of programs

on energy conservation awareness to participating grantees.

Response. No change has been made. Designation of the Energy and Education Action Center as the Department of Education's lead component for coordinating all activities relating to energy conservation, energy conservation awareness, and Executive Order 12185 has already been made. The Secretary concludes that the present functions and activities of the Energy and Education Action Center are fully responsive to the suggestions made by commenters.

C. Citation of Legal Authority

The reader will find a citation of legal authority in parenthesis on the line following each substantive provision of these final regulations.

Dated: August 22, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary amends Parts 100a and 100b of Title 45 of the Code of Federal Regulations to read as follows:

PART 100A—DIRECT GRANT PROGRAMS

(1) The following sections are added to the table of contents under Subpart E of Part 100a:

Sec.
100a.616 Energy conservation.
* * * * *
100a.690 Energy conservation awareness.
* * * * *

Authority: Sec. 403(b) of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620 (42 U.S.C. 8373(b); 92 Stat. 3289–3349) and Executive Order 12185.

(2) The following two sections are added to Part 100a:

§ 100a.616 Energy conservation.

(a) To the extent feasible, the grantee shall design and construct facilities to maximize the efficient use of energy and to minimize the use of petroleum and natural gas as energy sources.

(b) Standard 90–75 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) is incorporated by reference in this section.

Note.—Incorporation by reference provisions approved by the Director of the Federal Register on August 25, 1980. Incorporated document is on file at the **Federal Register.**

Copies of ASHRAE 90–75 may be obtained from the Publication Sales Department, American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 345 East 47th Street, New York, New York 10017.

(c) A grantee shall comply with ASHRAE Standard 90–75 in designing and constructing facilities built with project funds.

(42 U.S.C. 8373(b); E.O. No. 12185)

§ 100a.690 Energy conservation awareness.

To the extent that it is consistent with the statute and regulations for any program, the grantee shall consider incorporating into its program a component on energy awareness. This component may include study of the problems, solutions, and alternatives relating to the Nation's energy crisis.

(42 U.S.C. 8373(b); E.O. No. 12185)

PART 100B—STATE-ADMINISTERED PROGRAMS

(3) The following section is added to the table of contents under Subpart E of Part 100b:

Sec.
100b.690 Energy conservation awareness.
* * * * *

(4) The following section is added to Part 100b: funds.

§ 100b.690 Energy conservation awareness.

To the extent that it is consistent with the statute and regulations for any program, the subgrantee shall consider incorporating into its program a component on energy awareness. This component may include a study of the problems, solutions, and alternatives relating to the Nation's energy crisis.

(42 U.S.C. 8373(b); E.O. No. 12185)

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